

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NINTENDO OF AMERICA INC., a
Washington corporation,

Plaintiff,

vs.

HUMAN THINGS, INC. d/b/a GENKI,
a Delaware corporation.

Defendant.

Case No. 2:25-cv-03960-MEMF-E

District Judge Maame Ewusi Mensah
Frimpong

Magistrate Judge Charles F. Eick

**[PROPOSED] ORDER GRANTING
STIPULATION FOR PERMANENT
INJUNCTION AND ENTERING
JUDGMENT**

This matter came before the Court on the parties' Stipulated Motion for Entry of Final Judgment and Permanent Injunction, Dkt. No. 30.

The Court makes the following FINDINGS OF FACT:

1. This is an action filed by Plaintiff Nintendo of America Inc. against Defendant Human Things, Inc. /d/b/a Genki for trademark infringement, unfair competition, and false advertising.

2. Plaintiff and/or its affiliates develop and distribute the Nintendo Switch video game console ("Switch"), Nintendo Switch 2 video game console ("Switch 2"), Joy-Con video game controller ("Joy-Con"), and Joy-Con 2 video game controller ("Joy-Con 2"); are the publishers and owners of exclusive rights in a number of video

1 games; and are the owners of numerous intellectual property rights including but not
2 limited to trademarks, trade dress, trade secret, copyrights, and patents held and used
3 in connection with video game consoles, video games, video game accessories, and
4 related characters, goods and services, and presentations such as “Nintendo Direct”
5 online showcases (collectively hereinafter “Nintendo IP”).

6 3. Defendant operates and markets an online business selling accessories
7 for gaming consoles and components like the Switch, Switch 2, Joy-Con, and Joy-
8 Con 2, including through the website www.genkithings.com, social media, press
9 interviews and releases, and other media.

10 4. Defendant began to advertise and promote accessories for use with the
11 Switch 2 (the “Prerelease Genki Accessories”) at least as early as January 7, 2025,
12 which was prior to Plaintiff’s announcement of the Switch 2 name and design through
13 Plaintiff’s “First-look Trailer,” on January 16, 2025, and prior to Plaintiff’s Nintendo
14 Direct for the Switch 2 console and Plaintiff’s release of technical specifications for
15 the Switch 2 console, which were both released on April 2, 2025. Building off these
16 prerelease promotions, Defendant promoted compatibility of the Prerelease Genki
17 Accessories with the Switch 2 in a “Genki Direct” (also called “Genki Indirect”)
18 immediately after Plaintiff’s Nintendo Direct and prior to the public release of the
19 Switch 2 despite the lack of public information regarding the Switch 2 technical
20 specifications.

21 5. Defendant also publicly exhibited an alleged 3-D printed mockup and
22 digital render of the Switch 2 at CES 2025, which displayed Nintendo’s trademarks
23 prior to the First-look Trailer.

24 6. Third-party public media accounts reported that Defendant obtained
25 unauthorized and illicit access to an unreleased Switch 2 prior to Plaintiff’s First-look
26 Trailer or release of the console and that Defendant was able to develop the Prerelease
27 Genki Accessories because of such access.

28 7. Defendant represents and attests that it did not obtain access to any of

1 Plaintiff's property (e.g., including but not limited to an unreleased Switch 2 or any
2 documents, files, consoles, or accessories relating thereto) prior to the Plaintiff's First-
3 look Trailer or official launch of the Switch 2.

4 8. The parties have resolved Plaintiff's claims in this action pursuant to a
5 separate confidential settlement agreement (the "Agreement") that operates in
6 conjunction with this Final Judgment and Permanent Injunction ("Consent
7 Judgment").

8
9 The Court enters JUDGMENT as follows:

10 1. Plaintiff is awarded judgment on its claims against Defendant with
11 payment in an agreed-upon amount representing Plaintiff's damages pursuant to the
12 confidential terms of the Agreement.

13 2. Each party shall bear its own attorneys' fees and costs.

14 In addition, pursuant to the Trademark Act of 1946, as amended, 15 U.S.C.
15 § 1051 *et seq.* (the "Lanham Act"), California Business and Professions Code §
16 17200, and the Court's inherent equitable powers, it is hereby **ORDERED** that:

17 3. A permanent injunction is entered against Defendant enjoining it and its
18 successors, affiliates, agents, officers, directors, employees, members, parents,
19 subsidiaries, partners, predecessors, representatives, and assigns, and all those acting
20 in privity with it or under its control from:

21 a. using any logo or design mark owned by Plaintiff, or anything
22 confusingly similar thereto, in any manner in connection with its business;

23 b. using any Nintendo intellectual property, including but not limited
24 to the marks "NINTENDO," "SWITCH," "SWITCH 2," or "JOY-CON," or anything
25 confusingly or substantially similar thereto, in Defendant's product names;

26 c. using or making reference(s) to Nintendo's intellectual property,
27 including but not limited to the marks "NINTENDO," "NINTENDO SWITCH," and
28 "NINTENDO SWITCH 2," or to Plaintiff or its affiliates, in connection with

1 Defendant's products, except in a nominative fair use manner and to the extent
2 necessary to make accurate, verifiable, and lawful compatibility claims regarding
3 those products or to accurately disclaim any connection or affiliation with, or
4 endorsement or sponsorship by, Plaintiff, Plaintiff's intellectual property, or
5 Plaintiff's goods or services;

6 d. using the terms "Glitch," "Glitch 2," "Genki Direct," "Genki
7 Indirect," or any other similar rebranding or approximation of Nintendo's intellectual
8 property, products, product names, characters, presentations, or marks;

9 e. for any accessories compatible or marketed for use with
10 Nintendo's products, implementing product packaging, product designs, and product
11 descriptions that fail to make clear to consumers Genki's status as an unlicensed
12 accessory manufacturer;

13 f. using elements in its product packaging, product designs, product
14 descriptions, marketing, or branding that replicate or are confusingly or substantially
15 similar to Nintendo's core color schemes (namely, red and white, red and blue, green
16 and pink, blue and yellow, purple and orange, pink and yellow, and purple and green)
17 except as otherwise provided in the Agreement;

18 g. using Nintendo intellectual property or designs confusingly or
19 substantially similar thereto, in connection with the advertising, promotion or
20 marketing of any products, whether in printed materials, email marketing
21 communications, oral representations or online content such as websites or social
22 media under Defendant's control;

23 h. infringing, or causing, enabling, facilitating, encouraging,
24 promoting, inducing, or participating in the infringement of, any of Nintendo's
25 trademarks, trade dress, copyrights, patents, or other intellectual property, whether
26 now in existence or hereafter created, including but not limited to the unauthorized
27 reproduction, display, public performance, or distribution of any of Nintendo's
28 copyrighted video games or operating systems; and

1 i. committing any other violation of Nintendo's intellectual property
2 rights, worldwide, whether now existing or hereafter created.

3 4. This permanent injunction constitutes a binding order of this Court, and
4 any violation of this order by Defendant will subject it to the full scope of this Court's
5 contempt authority, including punitive, coercive, and monetary sanctions.

6 5. The parties have waived their right to appeal this Judgment.

7 6. This Court shall maintain continuing jurisdiction over this action for the
8 purpose of enforcing this Final Judgment and Permanent Injunction. Plaintiff is not
9 required to post any bond or security in connection with the Final Judgment and
10 Permanent Injunction, and Defendant has permanently, irrevocably, and fully waived
11 any right to request a bond or security.

12 IT IS FURTHER ORDERED that Judgment be entered in this matter in
13 accordance with the terms set forth above, and that the clerk be, and hereby is,
14 directed to close this matter.

15
16 **IT IS SO ORDERED.**

17 Dated: _____, 2025

18 Hon. Maame Ewusi Mensah Frimpong
19 United States District Court Judge